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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,057	01/17/2006	Hideki Fukuda	OKUDP0156U'S	3905
51921	7590	05/12/2009	EXAMINER	
MARK D. SARALINO (PAN) RENNER, OTTO, BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE 19TH FLOOR CLEVELAND, OH 44115			CHOWDHURY, NICAR	
ART UNIT	PAPER NUMBER		2621	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,057	<b>Applicant(s)</b> FUKUDA, HIDEKI
	<b>Examiner</b> NIGAR CHOWDHURY	<b>Art Unit</b> 2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 January 2006.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2,8 and 9 is/are rejected.

7) Claim(s) 3-7 and 10-14 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 17 January 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/06)  
 Paper No(s)/Mail Date 1/17/06 2/24/06

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 8 are rejected under 35 U.S.C. 102(e) as being anticipated by US 7,136,573 by Kikuchi et al.

2. Regarding **claim 1**, a data processing apparatus capable of writing program data concerning video and/or audio on a first storage medium and a second storage medium (fig. 1 (1001)),

comprising:

- a reception section for receiving a signal concerning the program data (fig. 1 (42, 44), col. 6 lines 50-53);
- a selection section for selecting, from among a plurality of formats, a format which is writable on the first storage medium (col. 7 lines 11-54, col. 8 lines 26-34); and
- a control section for writing the program data on the first storage medium in the selected format, and after writing on the first storage medium is

ended, continuing to write the program data on the second storage medium in the format (fig. 11-12, col. 17 lines 6-59 ).

3. **Claim 8** is rejected for the same reason as discussed in the corresponding claim 1 above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 7,136,573 by Kikuchi et al. in view of US 5,541,738 by Mankovitz.
5. Regarding **claim 2**, Kikuchi discloses the data processing apparatus the control section further writes on the second storage medium: an identifier identifying the second storage medium; and medium management information including information which identifies a state, during recording, of the program data written on the second storage medium (fig. 2) but Kikuchi fails to disclose the data processing apparatus the control section further writes on the second storage medium: an identifier identifying the first storage medium; and medium management information including information which identifies a state, during recording, of the program data written on the first storage medium.

Mankovitz discloses the data processing apparatus the control section further writes on the second storage medium: an identifier identifying the first storage medium; and medium management information including information which identifies a state, during recording, of the program data written on the first storage medium (col. 4 lines 41-60).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the proposed combination of Kikkuchi's system to include a second recording medium with management information, as taught by Mankovitz, for a viewer to have more flexibility to find the management information of the first recording medium while watching second recording medium.

6. **Claim 9** is rejected for the same reason as discussed in the corresponding claim 2 above.

***Allowable Subject Matter***

Claims 3, and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4-7, and 11-14 are objected because these claims are dependent on claim 3, and 10.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a) US 5,463,605
- b) US 6,292,626
- c) US 7,440,680

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIGAR CHOWDHURY whose telephone number is (571)272-8890. The examiner can normally be reached on 9 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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05/08/2009

/JAMIE JO VENT ATALA/  
Examiner, Art Unit 2621